

store at least one of the music file and the associated transfer count;

allow the music file to be transferred to the one or more devices based on the transfer count;

reduce the transfer count by one in response to each successful transfer of the music file to the one or more devices; and

transmit a preselected transfer count for the music file transferred to the one or more devices, wherein the preselected transfer count indicates the number of times the file may be transferred by the one or more devices.

21. (Amended) The article of claim 17, wherein the instructions when executed enable the processor to transfer the preselected transfer count indicating that no further transfers by the one or more devices are allowed.

Remarks:

The Office Action has rejected claims 1-30 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,192,340 ("Abecassis") in view of U.S. Patent No. 6,282,653 ("Berstis"). Applicant respectfully traverses this rejection as to pending claims 10-17 and 21-25.

Regarding claim 17, Applicant notes that the Office Action indicates that Abecassis fails to teach or suggest "the use of a transfer count nor encryption of a file." Office Action, p. 3. The Office Action contends that Berstis teaches these items. However, Berstis does not disclose or suggest instructions to transmit a preselected transfer count to one or more devices to indicate "the number of times the file may be transferred by the one or more devices" as recited by amended claim 17. Further, Abecassis does not teach or suggest this limitation, as Abecassis fails to even disclose or suggest such a transfer

count. For at least this reason, claim 17 and claims 21-22 depending therefrom patentably distinguish over the proposed combination.

Regarding independent claim 10, nowhere does Berstis (or Abecassis) disclose or suggest a method in which a music file is transferred to a second portable device from a first portable device, and transferring to the second portable device a preselected transfer count "indicative of the number of time the second portable device may transfer the music file to one or more devices." In this regard, Applicant respectfully disagrees with the conclusion of the Office Action that Abecassis discloses transferring a music file from a first portable device to a second portable device and then transferring the music file to one or more devices therefrom. Office Action, p. 3. This is especially so, as the Office Action cannot point to any portion of Abecassis to support such a teaching. Id. Accordingly, claim 10 and claims 11-16 depending therefrom patentably distinguish over the proposed combination.

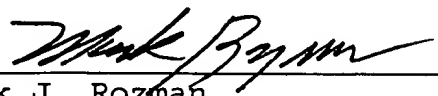
For similar reasons, independent claim 23 and claims 24 and 25 depending therefrom patentably distinguish over the proposed combination. That is, neither Berstis nor Abecassis disclose or suggest a portable music player having a controller to "transmit an indication to the remote portable music player indicating the number of times the remote portable music player may transfer the transmitted file." Dependent claim 25 further patentably distinguishes, as nowhere does Berstis or Abecassis disclose or suggest transmitting a file to "a Secure Digital Music Initiative compliant music player."

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The

Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

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